

Commodity Futures Trading Commission  
CEA CASES

**NAME:** PACIFIC WEST COMMODITIES, INC., KENNETH M. MUELLER, BETHEL G. BUCKALEW, NORMAN C. LONG, AND LESTER J. SUTER

**DOCKET NUMBER:** 128

**DATE:** JULY 21, 1965

**DOCUMENT TYPE:** COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Pacific West Commodities, Inc., Kenneth M. Mueller, Bethel G. Buckalew, Norman C. Long, and Lester J. Suter, Respondents

CEA Docket No. 128

Complaint and Notice of Hearing under Section 6(b) of the Commodity Exchange Act

There is reason to believe that the respondents, Pacific West Commodities, Inc., Kenneth M. Mueller, Bethel G. Buckalew, Norman C. Long, and Lester J. Suter, have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.) and the regulations made pursuant thereto (17 CFR, Part 1), and in accordance with the provisions of section 6(b) of the said act (7 U.S.C. 9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent Pacific West Commodities, Inc., is a California corporation with its principal office and place of business at 1250 Prospect Street, La Jolla, California. The said corporation is now and was at all times material to this complaint a registered futures commission merchant under the Commodity Exchange Act.

II

Respondents Kenneth M. Mueller, Bethel G. Buckalew, Norman C. Long, and Lester J. Suter, individuals, whose business address is 1250 Prospect Street, La Jolla, California, are now and were at all times material to this complaint the president, executive vice president, vice president-treasurer, and secretary, respectively, of the respondent corporation. Respondent Kenneth M. Mueller was at all times material to this complaint a member of the Board of Trade of the City of Chicago, a duly designated contract market under the Commodity Exchange Act.

III

The acts and transactions hereinafter described were ordered by, or carried out by means of the acts of, or subject to the supervision and control of, Kenneth M. Mueller, Bethel G. Buckalew, Norman C. Long, and Lester J. Suter, acting in their capacities as officers of the respondent corporation.

IV

At the times hereinafter stated, respondent Pacific West Commodities, Inc., in the regular course of its business as a futures commission merchant, carried accounts of customers who traded in commodity futures subject to the provisions of the Commodity Exchange Act and regulations. At all such times, the said respondent had to

its credit with a bank or other depository, sums of money in varying amounts, held in segregated accounts and identified as customers' funds, representing deposits of margins by and trading profits accruing to such customers.

## V

On 46 business days during the period from January 29, 1965, through June 15, 1965, respondent Pacific West Commodities, Inc., was undersegregated in amounts ranging up to approximately \$ 31,600 on June 15, 1965, that is, the total amount of customers' funds held in segregation as described in paragraph IV above, was insufficient, by such amounts, to pay all credits and equities due to such customers.

## VI

On 24 business days during the period referred to in paragraph V above, respondent Pacific West Commodities, Inc., failed to make any computations or permanent record of the amount of money, securities, and property required to be held in segregated account in order to pay all credits and equities due to its customers.

## VII

Beginning on or about December 1, 1964, and continuing until on or about June 10, 1965, respondent Pacific West Commodities, Inc., made purchases and sales of commodity futures for its own use and benefit, and placed such trades in its customers' account carried by a correspondent firm, by reason of which the open contract positions

and financial results of such trades were commingled with the open contract positions and financial results of the transactions of the customers of the respondent corporation.

## VIII

During the period from January 29, 1965, through June 15, 1965, respondent Pacific West Commodities, Inc., purchased and sold commodity futures for the use and benefit of certain customers and margined, guaranteed, or secured such purchases and sales with funds belonging to other customers of the respondent firm.

## IX

By reason of the acts and omissions described in this complaint, respondents Pacific West Commodities, Inc., Kenneth M. Mueller, Bethel G. Buckalew, Norman C. Long, and Lester J. Suter failed to treat and deal with customers' funds as belonging to such customers, failed to segregate and account separately for such funds, used funds to margin or guarantee the trades or secure or extend the credit of customers other than those for whom such funds were held, commingled customers' funds with funds belonging to the respondent corporation, and failed to prepare and maintain the records required under the Commodity Exchange Act and regulations as a basis for such segregation and accounting, in willful violation of sections 4d(2) and 4g of the Commodity Exchange Act (7 U.S.C. 6d(2), 6g) and sections 1.20, 1.21, 1.22, 1.23 and 1.32 of the regulations (17 CFR 1.20, 1.21, 1.22, 1.23, 1.32).

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the said respondents. The respondents will have twenty (20) days after the receipt of this complaint in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, D. C. 20250, an answer with an original and six copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each allegation of this complaint. Allegations not answered will be deemed admitted for the

purpose of this proceeding. Failure to file an answer will constitute an admission of all the allegations of this complaint and a waiver of hearing. The respondents are hereby notified that unless hearing is waived, either expressly or by failure to file an answer, or by filing an answer in which all of the material allegations of fact contained in the complaint are admitted and a hearing is not requested, a hearing will be held at 10:00 a.m., local time, on the first day of September 1965, in La Jolla, California, at a place therein to be specified later, before a referee designated to conduct such hearing. At such hearing the respondents will have the right to appear and show cause, if any there be, why an order should not be made directing that all contract markets refuse all trading privileges to all the respondents for such period of time as may be determined, and suspending or revoking the registration of respondent Pacific West Commodities, Inc., as a futures commission merchant.

It is ordered that this complaint and notice of hearing be served on the respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C.,

on July 21, 1965.

[SEE SIGNATURE IN ORIGINAL]

Assistant Secretary

**LOAD-DATE:** June 12, 2008

